

The Supreme Court as the Guardian of Legality: The Coherence of Judicial Review of Electoral and Presidential Regulations

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Abstract: This article examines the authority of the Supreme Court (MA) of the Republic of Indonesia in exercising the right to judicial review of regulations under the law. The study covers the constitutional and normative foundations of this authority, the demarcation of authority between the Supreme Court and the Constitutional Court (MK) within a multi-tiered system of judicial review, the procedural law governing judicial review as stipulated in PERMA No. 1 of 2011, as well as two landmark cases: first, Supreme Court Decision No. 23 P/HUM/2024, which declared that Article 4(1)(d) of PKPU No. 9 of 2020 was inconsistent with Article 7(2)(e) of Law No. 10 of 2016 on Regional Head Elections in the context of age requirements for regional head candidacy; second, a petition for judicial review filed by a citizen challenging several articles in Presidential Regulation No. 82 of 2024 on the Presidential Communications Office (KKP). This article analyzes the constitutional, jurisprudential, and practical implications of these two cases and evaluates the effectiveness of the Supreme Court as the guardian of legality within Indonesia's legal system.

Keywords: right to judicial review; Supreme Court; PKPU; Presidential Regulation; regional elections; Presidential Communications Office; judicial review; hierarchy of norms.

I. Introduction

In Indonesia's hierarchical legal system, every legal regulation must be consistent with higher-ranking regulations. This principle—known in legal literature as *lex superior derogat legi inferiori*—forms the foundation of the normative order that ensures legal consistency and certainty in a rule-of-law state (*rechtsstaat*). However, what mechanisms ensure this principle is upheld when a lower-ranking regulation conflicts with a higher-ranking one?

The Indonesian legal system addresses this question by dividing the authority to review legal norms between the two highest judicial institutions: the Constitutional Court (MK) and the Supreme Court (MA). The MK is tasked with reviewing laws against the 1945 Constitution, while the MA is tasked with reviewing regulations and other legal instruments below the level of law against laws. The MA's authority in this judicial review is known as the right to substantive review (HUM) or, in international terminology, judicial review.

The year 2024 brought two HUM cases that attracted widespread attention. First, Supreme Court Decision No. 23 P/HUM/2024, which declared that a provision in PKPU No. 9 of 2020 was inconsistent with Law No. 10 of 2016 on Regional Head Elections—a ruling that emerged amid a controversial debate surrounding the age requirement for regional head candidacy and intersects with Constitutional Court Decision No. 70/PUU-XXII/2024. Second, a citizen's petition for a substantive review of Presidential Regulation No. 82 of 2024 on the Presidential Communications Office—a case that tests the limits of the President's authority in establishing institutions to support the presidency.

This article aims to: first, analyze the constitutional and normative foundations of the Supreme Court's authority regarding constitutional review; second, map out the demarcation of authority between the Supreme Court and the Constitutional Court; third, outline the procedural law governing constitutional review; fourth, to conduct an in-depth review of Decision No. 23 P/HUM/2024 regarding the Regional Election Commission (PKPU); fifth, to analyze the HUM petition challenging Presidential Regulation No.

82 of 2024 on the Presidential Communications Office (KKP); and sixth, to evaluate the Supreme Court's role as the guardian of legality within Indonesia's legal system.

II. Constitutional and Normative Foundations of the Supreme Court's Jurisdiction over HUM Cases

A. Constitutional Basis: Article 24A of the 1945 Constitution

The Supreme Court's authority in judicial review of the substance of laws is directly rooted in Article 24A(1) of the 1945 Constitution, which states: "The Supreme Court has the authority to hear cases at the cassation level, to review regulations below the level of law against the law, and has other powers granted by law." This provision establishes judicial review as a constitutional authority of the Supreme Court that cannot be curtailed by statutory provisions.

The phrase "to review regulations below the level of law against the law" in Article 24A contains three key elements: first, the subject of review is regulations below the level of law (Government Regulations, Presidential Regulations, Ministerial Regulations, Election Commission Regulations, Regional Regulations, and the like); second, the standard of review is the law (including laws in the formal sense as well as Government Regulations in Lieu of Law [Perppu] that have been enacted); third, the review is conducted by the Supreme Court as the highest judicial body.

Unlike the Constitutional Court (MK), which is a constitutional court with very specific authority, the Supreme Court is the apex of the general judiciary, possessing appellate jurisdiction over the entire judicial system, plus the authority to conduct judicial review (HUM) outside the constitutional sphere. This makes the Supreme Court a unique institution: it serves simultaneously as the highest court in adjudicating concrete cases and as a normative court in the context of judicial review (HUM).

B. Regulatory Framework for HUM

Article 24A, paragraph (1) of the 1945 Constitution	The constitutional basis for the Supreme Court's authority in HUM; this authority cannot be diminished by law.
Article 31 of Law No. 14 of 1985	Legal basis for the authority of the Supreme Court; amended by Law No. 5 of 2004 and Law No. 3 of 2009.
Article 9(2) of Law No. 12 of 2011	States that regulations under a law that conflict with that law are declared invalid by a Supreme Court decision.
Supreme Court Regulation No. 1 of 2011	Procedural rules for substantive review at the Supreme Court; regulates procedures, time limits, and the format of rulings.
SEMA No. 4 of 2016	Guidelines following a Constitutional Court decision regarding the management of human rights cases that intersect with the review of laws by the Constitutional Court.

C. Hierarchy of Norms and Review Framework

To understand the scope of the Supreme Court's HUM, it is important to map the hierarchy of Indonesian legislation as stipulated in Law No. 12 of 2011 as amended by Law No. 15 of 2019. The following is a complete hierarchy map along with the applicable review mechanisms:

Type of Regulation	Category	Hierarchy	Review Mechanism
1945 Constitution	Constitution	Supreme	
MPR Decree	MPR Decree	Very High	Reviewed by the Constitutional Court
Law / Government Regulation in Lieu of Law	Legislation	High	Reviewed by the Constitutional Court (against the Constitution)
Government Regulation (PP)	Executive Regulations	Upper-Middle	Reviewed by the Supreme Court (against the Law)

Presidential Regulation (Perpres)	Presidential Regulation	Intermediate	Reviewed by the Supreme Court (against laws/Presidential Regulations)
Ministerial Regulation / PKPU / Perbawaslu	Sectoral Regulations	Lower-Middle	Reviewed by the Supreme Court
Provincial Regulations	Local Regulations	Low	Reviewed by the Supreme Court
Regulations of Regencies/Cities	Local Regulations	Lowest Level	Reviewed by the Supreme Court

The table above confirms that the Supreme Court has jurisdiction to review nearly all levels of Indonesia's positive law below the level of statutes. This places the Supreme Court in a highly strategic position as the guardian of normative consistency across most levels of Indonesia's legal hierarchy.

III. Demarcation of the Supreme Court's and Constitutional Court's Jurisdiction in Reviewing Legal Norms

A. Complementary Division of Authority

Indonesia's legal norm review system is designed as a layered yet complementary system between the Supreme Court and the Constitutional Court. These two institutions do not compete with one another but rather complement each other to form a comprehensive legal norm review system at all hierarchical levels. The fundamental principle is simple: the Supreme Court reviews downward (regulations below statutes against statutes), while the Constitutional Court reviews upward (statutes against the Constitution).

Aspect	Supreme Court (HUM)	Constitutional Court
Constitutional Basis	Article 24A, paragraph (1) of the 1945 Constitution	Article 24C, paragraph (1) of the 1945 Constitution
Subject of Review	Regulations under laws	Laws (UU)
Test standard	Higher-ranking legislation (including laws)	1945 Constitution
Examples of objects	Government Regulations, Presidential Regulations, Ministerial Regulations, Election Commission Regulations, Local Regulations	State Budget Law, Job Creation Law, Election Law
Legal Basis	Article 31 of Law No. 14/1985 as amended by Law No. 5/2004 and Law No. 3/2009	Article 10 of Law No. 24/2003 as amended by Law No. 8/2011
Procedural Law	Supreme Court Regulation No. 1 of 2011	Constitutional Court Law; Constitutional Court Regulation No. 2/2021
Decision Deadline	14 working days (from the date the case file is complete)	No strict deadline
Nature of the decision	Erga omnes; published in the State Gazette	Final, binding, and immediately effective
Nature of the institution	Highest court (appeals & constitutional review)	Special constitutional court
Limits on subject matter	Cannot review laws	Cannot review regulations under laws

B. Gray Areas: Issues of Overlap

Although the division of authority appears clear in theory, in practice there is a gray area that has the potential to create overlap or conflict between decisions of the Supreme Court and the Constitutional Court. This occurs when:

1. A regulation under a law is reviewed by the Supreme Court, but the law used as the basis for the review is subsequently challenged before the Constitutional Court and declared unconstitutional. In this situation, the validity of the Supreme Court's decision—which was based on that law—is called into question.
2. The substance of the provisions in a regulation under a law essentially repeats or implements existing statutory provisions; a substantive review of that regulation may result in an implicit review of the law upon which it is based.
3. A Supreme Court decision granted HUM's petition regarding a regulation, while at the same time the Constitutional Court rejected the challenge to the law upon which that regulation was based—a situation that occurred in Supreme Court Decision No. 23 P/HUM/2024 and Constitutional Court Decision No. 70/PUU-XXII/2024.

SEMA No. 4 of 2016 has sought to regulate coordination between the Supreme Court and the Constitutional Court, but it has not fully closed all existing loopholes. A more formal and structured coordination mechanism is needed to prevent conflicting rulings that could create legal uncertainty.

C. The Principle of Priority in Conflicts of Judicial Review Standards

In situations of potential conflict between the Supreme Court and the Constitutional Court, several principles can serve as guidelines:

1. The *lex specialis* principle: If a sectoral law has established a separate review mechanism for a particular type of regulation, that mechanism takes precedence. However, this does not preclude the Supreme Court's authority under Article 24A of the 1945 Constitution.
2. The principle of chronological priority: In some legal doctrines, the ruling issued first takes precedence, although this is not always appropriate in the context of constantly changing legal norms.
3. The principle of substance: If the Constitutional Court declares a law unconstitutional after the Supreme Court has issued a judgment of "HUM" based on that law, an evaluation must be conducted to determine whether the Supreme Court's decision remains relevant or needs to be reviewed.

IV. Procedural Law for Substantive Review at the Supreme Court

A. Legal Standing of the Petitioner

PERMA No. 1 of 2011 stipulates that a petitioner in a HUM case must be able to prove legal standing—that is, the existence of a legal interest directly affected by the enforcement of the regulation under review. Unlike reviews before the Constitutional Court, which use the parameter of "infringement of constitutional rights," reviews before the Supreme Court use the parameter of "infringement of rights caused by the enforcement of the regulation under review."

Petitioner	Requirements for Legal Standing	Note
Individual Indonesian Citizens	A citizen whose constitutional rights have been infringed upon by the enforcement of the regulation under review	Petitioner under Presidential Regulation No. 82/2024 in this case
Indigenous legal community	As long as it remains in existence and in accordance with societal developments and the principle of a unitary state	Relevant to regulations affecting customary rights

Public legal entities	State institutions, legal entities established by the government	Rare; must prove direct harm
Private legal entities	PT, foundations, cooperatives, mass organizations, etc.	Most common entities other than individuals
State institutions	House of Representatives (DPR), Regional Representatives Council (DPD), local governments, in their institutional capacity	Contextual; usually in disputes over jurisdiction

B. Flowchart of the Substantive Review Process

The procedures for filing and reviewing constitutional review cases at the Supreme Court are regulated in detail in PERMA No. 1 of 2011. The following is the process flow that must be followed:

No	Stage	Description	Important Notes
1	Filing a Petition	The petitioner files a request for judicial review with the Supreme Court Clerk's Office; attaches a copy of the regulation being challenged and evidence of damages	Must specify the regulation being challenged
2	Review of Completeness (7 days)	The clerk checks the formal completeness of the petition; if it is incomplete, it is returned to be completed within 7 days	Incomplete applications will not be registered
3	Registration & Appointment of the Panel	The case is registered under number P/HUM/[year]; the Supreme Court appoints the panel of judges who will hear the case	Number format: xx/P/HUM/YYYY
4	Sending a Copy to the Respondent	The Supreme Court sends a copy of the petition to the official who issued the regulation being challenged as the respondent	The respondent is given the opportunity to file a response
5	Examination & Review	The panel reviews the case file; may summon the parties; considers the test case against the challenged regulation	The process is conducted on paper; there is not always a public hearing
6	Decision (max. 14 business days)	The Supreme Court issues a decision: (a) the petition is granted; (b) the petition is denied; or (c) the petition is dismissed	Deadline of 14 business days from the date the case file is deemed complete
7	Publication & Enforcement	A ruling granting the petition is published in the State Gazette within 30 days; the regulation is declared invalid and non-binding	Erga omnes; applies to all citizens

The 14-business-day deadline established by PERMA No. 1 of 2011 is one of the strictest provisions in the Supreme Court's procedural law. This deadline reflects the urgency of legal certainty in the review of legal norms: uncertainty regarding the legality of a regulation must be resolved immediately so as not to cause prolonged legal uncertainty.

C. Types and Implications of HUM Decisions

Ruling	Conditions	Consequences	Further Effects
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Granted in full	All provisions under review are declared inconsistent with the test standard	All provisions under review are invalid; the respondent is required to repeal or amend	Erga omnes; published in the State Gazette within 30 days
Partially Granted	Some provisions were found to be inconsistent	Only the provisions that were upheld are invalid	The regulation remains in effect for the parts that were not challenged or upheld
Rejected	The provision under review was not found to be in conflict	The regulation remains in full force	The petitioner may file a new petition on different grounds
Inadmissible (NO)	Fails to meet formal requirements (legal standing, subject matter, etc.)	The case was not examined on its merits	May be refiled after meeting formal requirements

The most crucial aspect of the Supreme Court's HUM decision is its erga omnes nature: the decision applies to all citizens and state officials, not just the parties to the case. The Supreme Court's obligation to publish the decision in the State Gazette within 30 days reflects its institutional responsibility to ensure that all stakeholders are aware of the outcome of the review of the relevant legal norm.

V. Supreme Court Decision No. 23 P/HUM/2024: Regional Election Regulations and Age Requirements

A. Context and Background of the Case

Supreme Court Decision No. 23 P/HUM/2024 emerged in a context rich with constitutional and political implications: a long-standing debate regarding the minimum age requirement for regional head candidates in regional head elections (Pilkada). This case is directly related to the provisions in General Election Commission Regulation (PKPU) No. 9 of 2020, which governs the administrative requirements for candidacy in regional head elections.

The subject of review in Decision No. 23 P/HUM/2024 is Article 4(1)(d) of PKPU No. 9 of 2020, which sets forth the age requirement for regional head candidacy. The Supreme Court ruled that this provision conflicts with Article 7(2)(e) of Law No. 10 of 2016 on the Election of Governors, Regents, and Mayors.

B. Analysis of the Conflict of Legal Provisions

Supreme Court Decision No. 23 P/HUM/2024	
Case Number	23 P/HUM/2024
Subject of Review	Article 4(1)(d) of PKPU No. 9 of 2020 on Candidacy for the Election of Governors, Regents, and Mayors
Testing Criteria	Article 7(2)(e) of Law No. 10 of 2016 on the Election of Governors, Regents, and Mayors
Key Issue	When must the minimum age requirement for a candidate for regional head be met: at the time of registration or at the time of inauguration?
Ruling	PKPU No. 9/2020, Article 4, paragraph (1), subparagraph d, is declared to be in conflict with the Regional Election Law and is invalid
Consequences	The KPU is required to amend the PKPU; the age requirement must comply with the Supreme Court's interpretation of the Regional Election Law

Controversy

This decision conflicts with Constitutional Court Decision No. 70/PUU-XXII/2024 on the same issue

C. Ultra Vires PKPU: Exceeding the Mandate of the Law

The crux of the review in Decision No. 23 P/HUM/2024 is whether the PKPU, as an implementing regulation, has exceeded the limits (*ultra vires*) of the provisions set forth in the Regional Election Law as the higher-ranking regulation. The *ultra vires* doctrine in administrative law asserts that implementing regulations cannot create norms that lack a basis in the law upon which they are based, let alone norms that contradict that law.

The Supreme Court found that Article 4(1)(d) of KPU Regulation No. 9 of 2020 established an interpretation or provision regarding age requirements that was inconsistent with—or even contradicted—Article 7(2)(e) of Law No. 10 of 2016. This inconsistency constitutes a violation of the principle of the supremacy of law within the hierarchy of legal norms: the KPU's technical regulations cannot deviate from the provisions established by the legislature.

D. Interaction with Constitutional Court Decision No. 70/PUU-XXII/2024

One of the most complex aspects of Supreme Court Decision No. 23 P/HUM/2024 is its overlap with Constitutional Court Decision No. 70/PUU-XXII/2024. Both decisions address a related issue: the age requirement for candidacy for regional head. However, their legal pathways and the subject matter of their review differ fundamentally:

1. Constitutional Court Decision No. 70/PUU-XXII/2024 reviews a law against the 1945 Constitution: a constitutional judicial review mechanism that examines whether the provisions in the Regional Election Law itself are constitutional.
2. Supreme Court Decision No. 23 P/HUM/2024 reviews a KPU regulation against the law: a HUM mechanism that examines whether the provisions in the KPU's technical regulations are consistent with the Regional Election Law.

The overlap between two rulings from two different supreme judicial institutions on a similar issue creates a real jurisprudential dilemma. When the Constitutional Court (MK) and the Supreme Court (MA) issue inconsistent rulings on closely related matters, legal certainty—which is precisely the primary objective of reviewing legal norms—is threatened.

This situation highlights the need for a more formal coordination mechanism between the Supreme Court and the Constitutional Court to ensure the coherence of the norm-review system. An inter-institutional dialogue forum or a written protocol regarding the handling of cases with potential for overlap needs to be formally institutionalized.

E. Implications for Indonesia's Electoral System

Decision No. 23 P/HUM/2024 has far-reaching implications for Indonesia's electoral system, particularly in two respects:

4. Strengthening the supremacy of law over technical regulations: This decision affirms that the General Elections Commission (KPU), as the electoral management body, cannot, through its technical regulations, deviate from or alter provisions established by law, even on grounds of practicality or technical expediency.
5. A precedent for future challenges to KPU regulations: This ruling paves the way for challenges to KPU regulations (PKPU) and other Bawaslu regulations deemed to conflict with election laws. This constitutes an important mechanism for external oversight of the election administration's technical regulations.

VI. Petition for Judicial Review of Presidential Regulation No. 82 of 2024 on the KKP

A. Background: The Presidential Communications Office

Presidential Regulation No. 82 of 2024 on the Presidential Communications Office (KKP) is a regulatory instrument issued by President Prabowo Subianto at the beginning of his administration. The KKP was established as an agency tasked with supporting the President's communications with the public. The establishment of the KKP through a Presidential Regulation—rather than through a law—raises questions regarding the President's authority to create new agencies within the presidential office.

A citizen filed a petition for judicial review of several articles in Presidential Regulation No. 82 of 2024 with the Supreme Court. This petition is an exercise of the right to judicial review granted by the Constitution and the law to every citizen to challenge the legality of regulations deemed to conflict with higher-ranking laws.

B. Case Profile

HUM's Petition Regarding Presidential Regulation No. 82 of 2024 on the KKP	
Subject of Review	Several articles in Presidential Regulation No. 82 of 2024 on the Presidential Communications Office
Petitioner	An Indonesian citizen (individual)
Forum	The Supreme Court through the mechanism of Judicial Review (HUM)
Potential Test Case	The law serving as the basis for the President's authority to establish institutions; principles of administrative law
Substance of the Issue	Does the Presidential Regulation exceed the President's authority (<i>ultra vires</i>) in establishing and regulating the KKP?
Status	Currently under review by the Supreme Court
Relevance	Testing the Limits of the President's Regulatory Authority through Presidential Regulations

C. Constitutional Issue: The Limits of Presidential Regulation Authority

Presidential Regulations (Perpres) are legal regulations issued by the President pursuant to Article 4, paragraph (1) of the 1945 Constitution, which stipulates that the President holds executive power, and Article 17 of the 1945 Constitution, which governs the President's authority in matters of government. Perpres generally serve as:

- Implementing regulations for laws: elaborating in more technical detail on provisions already set forth in laws or Government Regulations (PP);
- Standalone regulations (*zelfstandige AMvB*): regulating specific matters whose regulation has been delegated to the President by law; or
- Regulations to carry out governmental duties and functions derived directly from the President's constitutional authority.

The establishment of the KKP via a Presidential Regulation raises questions regarding which category was used. If the KKP is a new agency with new functions and powers, the relevant legal question is: does the President possess the constitutional authority and/or the authority granted by law to establish such an agency solely through the instrument of a Presidential Regulation?

In the tradition of administrative law, the establishment of a new agency possessing significant public authority—including authority related to the state's communication functions—ideally requires a strong legal basis in statute, not merely a Presidential Regulation, which is a unilateral product of the executive branch. This requirement for a statutory legal basis stems from the principle of administrative legality (*legaliteitsbeginsel*), which mandates that every governmental action must be grounded in positive law.

D. The Substantive Review Dimension: Does the KKP Presidential Regulation Exceed the President's Authority?

In the petition for a substantive review of Presidential Regulation No. 82 of 2024, the Supreme Court is essentially being asked to answer the following questions:

1. Do the provisions under review in Presidential Regulation No. 82 of 2024 conflict with the laws governing the structure and status of the presidential institution? If the Presidential Regulation establishes authorities or duties for the KKP that exceed what is permitted by law, this constitutes *ultra vires*, which can serve as grounds for annulment.
2. Does the establishment of the KKP through a Presidential Regulation conflict with the principles set forth in Law No. 30 of 2014 on Government Administration or Law No. 12 of 2011 on the Formulation of Legislation? If the matters regulated in the Presidential Regulation should be regulated by law (matters reserved for legislation), then the Presidential Regulation may be declared invalid.
3. Do certain provisions in Presidential Regulation No. 82 of 2024 conflict with laws governing freedom of the press, information, and communication? If the KKP is granted authority that could restrict or control public information, this may conflict with provisions of the Press Law or the Freedom of Information Act.

This case illustrates the importance of the Supreme Court's judicial review mechanism in overseeing executive regulations—it provides citizens with a concrete judicial forum to challenge the President's regulatory policies deemed to exceed the limits of constitutional and statutory authority.

E. Reflection: Democratizing the Review of Legal Norms through Judicial Review

What is particularly noteworthy about this KKP Presidential Regulation case is the fact that the petitioner is an ordinary citizen. This demonstrates one of the most democratic aspects of the Supreme Court's judicial review mechanism: any citizen who feels aggrieved by the enforcement of a regulation may directly file a petition for judicial review with the highest judicial body.

Ordinary citizens' access to the judicial review mechanism reflects the principle of equality before the law and proves that Indonesia's legal system does not only provide access to justice for parties with substantial legal resources. With relatively lenient legal standing requirements and no obligation to be represented by an attorney, judicial review serves as a vital democratic instrument in overseeing the government's regulatory policies.

VII. Evaluation and Recommendations

A. The Supreme Court as Guardian of Legality: Achievements and Limitations

The two cases examined in this article—Decision No. 23 P/HUM/2024 and HUM's petition regarding Presidential Regulation No. 82 of 2024—collectively paint a picture of the Supreme Court as an active and responsive guardian of legality. The Supreme Court does not hesitate to exercise its HUM authority even in cases with high political stakes.

However, there are several limitations that must be acknowledged. First, the coordination mechanism between the Supreme Court and the Constitutional Court still needs to be strengthened, as evidenced by the potential conflict between Supreme Court Decision No. 23 P/HUM/2024 and Constitutional Court Decision No. 70/PUU-XXII/2024. Second, the implementation of HUM rulings does not always proceed smoothly: institutions whose regulations have been annulled do not always adapt immediately. Third, access to the HUM mechanism for the general public—who lack in-depth legal knowledge—remains limited.

B. Recommendations for Strengthening the HUM System

Based on the analysis conducted, this article formulates several recommendations:

1. Formalization of the Supreme Court–Constitutional Court coordination mechanism: A formal protocol—such as a Memorandum of Understanding (MoU), a joint SEMA, or statutory provisions—is needed to govern how the Supreme Court and the Constitutional Court coordinate in handling cases where the subjects of review are interrelated, to prevent conflicting rulings that undermine legal certainty.
2. Strengthening the mechanism for enforcing HUM rulings: More stringent regulations are needed regarding the obligation of institutions whose regulations have been annulled to immediately revoke or amend those regulations, accompanied by clear sanctions if this obligation is not fulfilled within the specified time limit.

3. Improving the accessibility of the HUM mechanism: Guidelines for filing HUM cases should be developed in language that is easily understood by the general public, along with an online portal that allows for real-time monitoring of the progress of HUM cases.
4. Transparency and publication of decisions: All Supreme Court HUM decisions must be proactively published, properly indexed, and freely accessible through the Supreme Court's official digital platform to maximize the erga omnes impact of these decisions.
5. Legislative review of the hierarchy of norms and the limits of Presidential Regulation authority: Given the increasing use of Presidential Regulations as instruments for establishing institutions and policies, a more in-depth academic and legislative discussion is needed regarding the constitutional limits of the President's regulatory authority through Presidential Regulations.

VIII. Conclusion

Based on the analysis conducted, this article draws the following conclusions:

1. The Supreme Court's authority in substantive judicial review (HUM) is a constitutional authority derived directly from Article 24A(1) of the 1945 Constitution and cannot be diminished by provisions below the constitutional level. This authority complements that of the Constitutional Court, thereby forming a comprehensive, multi-tiered system of normative review ranging from the 1945 Constitution down to regency/city regulations.
2. The demarcation between the authority of the Supreme Court (HUM) and the Constitutional Court (constitutional judicial review) is fundamentally clear: the Supreme Court reviews regulations below the level of law against laws; the Constitutional Court reviews laws against the Constitution. However, in practice, there is a gray area that requires a more formal coordination mechanism between the two institutions.
3. Supreme Court Decision No. 23 P/HUM/2024, which declared that Article 4(1)(d) of KPU Regulation No. 9 of 2020 conflicts with Article 7(2)(e) of Law No. 10 of 2016 on Regional Head Elections, is a landmark decision that affirms: first, that the General Elections Commission (KPU), as the election organizing body, cannot, through its Election Commission Regulations (PKPU), deviate from or alter provisions already established in the law; second, that the overlap between the Supreme Court's decision and Constitutional Court Decision No. 70/PUU-XXII/2024 on related issues highlights the urgency of a more formal judicial coordination mechanism between the Supreme Court and the Constitutional Court.
4. A citizen's petition for a substantive review of Presidential Regulation No. 82 of 2024 on the KKP highlights two important points: first, the Supreme Court's judicial review mechanism is inclusive and open to all citizens who feel aggrieved by the enforcement of a regulation; second, a Presidential Regulation—as a unilateral executive act—is not immune from judicial review; even the President is subject to the principle of the supremacy of law upheld by the Supreme Court.
5. The Supreme Court's effectiveness as the guardian of legality depends on strengthening four areas: coordination with the Constitutional Court, mechanisms for enforcing rulings, public access to the Supreme Court's judicial review process, and transparency in the publication of rulings. Strengthening these four areas will optimize the Supreme Court's contribution to maintaining the consistency and certainty of legal norms in Indonesia.

A sound legal system is not one that merely has well-written legal norms, but rather one that possesses mechanisms to ensure these norms are consistent with one another at all hierarchical levels, and that any deviations can be corrected through effective judicial channels accessible to all parties. This is the essence of the Supreme Court's judicial authority, and it is what must continue to be strengthened as Indonesia progresses as a democratic state governed by the rule of law.

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Bibliography

Asshiddiqie, Jimly. (2006). *Hukum Acara Pengujian Undang-Undang*. Jakarta: Sekretariat Jenderal MK RI.

- Fatmawati. (2005). Hak Menguji (Toetsingsrecht) yang Dimiliki Hakim dalam Sistem Hukum Indonesia. Jakarta: RajaGrafindo Persada.
- HR, Ridwan. (2016). Hukum Administrasi Negara (Edisi Revisi). Jakarta: RajaGrafindo Persada.
- Indroharto. (1993). Usaha Memahami Undang-Undang tentang Peradilan Tata Usaha Negara. Jakarta: Pustaka Sinar Harapan.
- Mahkamah Agung RI. (2025). Laporan Tahunan Mahkamah Agung 2024. Jakarta: MA RI.
- Maria Farida Indrati S. (2007). Ilmu Perundang-undangan: Jenis, Fungsi, dan Materi Muatan. Yogyakarta: Kanisius.
- Mochtar, Zainal Arifin. (2017). Lembaga Negara Independen: Dinamika Perkembangan dan Urgensi Penataannya. Depok: RajaGrafindo Persada.
- Peraturan Komisi Pemilihan Umum Nomor 9 Tahun 2020 tentang Pencalonan Pemilihan Gubernur dan Wakil Gubernur, Bupati dan Wakil Bupati, dan/atau Wali Kota dan Wakil Wali Kota.
- Peraturan Mahkamah Agung Nomor 1 Tahun 2011 tentang Hak Uji Materiil.
- Peraturan Presiden Nomor 82 Tahun 2024 tentang Kantor Komunikasi Kepresidenan.
- Putusan Mahkamah Agung Nomor 23 P/HUM/2024, perihal Pengujian Pasal 4 ayat (1) huruf d PKPU No. 9 Tahun 2020 terhadap Pasal 7 ayat (2) huruf e UU No. 10 Tahun 2016.
- Putusan Mahkamah Konstitusi Nomor 21–22/PUU-V/2007 tentang Kewenangan Pengujian Peraturan di Bawah UU.
- Putusan Mahkamah Konstitusi Nomor 70/PUU-XXII/2024, perihal Pengujian UU Pilkada terkait Syarat Usia Pencalonan Kepala Daerah.
- Surat Edaran Mahkamah Agung Nomor 4 Tahun 2016 tentang Pemberlakuan Rumusan Hasil Rapat Pleno Kamar MA Tahun 2016.
- Tushnet, Mark. (2008). Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law. Princeton: Princeton University Press.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- Undang-Undang Nomor 10 Tahun 2016 tentang Perubahan Kedua atas UU No. 1 Tahun 2015 tentang Pemilihan Gubernur, Bupati, dan Wali Kota.
- Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan jo. UU No. 15 Tahun 2019.
- Undang-Undang Nomor 14 Tahun 1985 tentang Mahkamah Agung sebagaimana diubah dengan UU No. 5 Tahun 2004 dan UU No. 3 Tahun 2009.
- Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan.